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I am vigorously opposed to the proposed settlement in the Microsoft antitrust trial. The proposed settlement does not fully redress the actions committed by Microsoft in the past, nor inhibit their ability to commit similar actions in the future. Also, the proposal provides inadequate reparations to those injured by Microsoft's anti-competitive behavior. Hundreds, even thousands, of small companies have ceased to exist over the decades because of Microsoft's business practices.

I applauded the Clinton administration's courage to prosecute Microsoft for their anti-competitive behavior and was disgusted by the Bush administration's decision to acquiesce when the government had the superior position by rule of the full bench of the U.S. Court of Appeals. The Department of Justice's (DOJ) settlement was brokered by Bush administration appointee Assistant Attorney General Charles A. James, head of the DOJ's antitrust division. But career officials at the Justice Department, who had pursued the case since the beginning, displayed their displeasure with the agreement by not signing it. Also, the Attorneys General of 9 states and the District of Columbia found the proposed settlement to be substantially inadequate.

The market must be able to return to a state of healthy competition. One can look at the market for PC microprocessors to see the value of true competition. Intel Corp. had a large market lead in microprocessors, but Advanced Micro Devices (AMD) was able to gain market share with superior products at a lower price. Both of which were in the public's interest. There were no anti-competitive moves by Intel. In fact, Intel was pushed buy the quality and public acceptance of AMD's products to make a better microprocessor at a lower price. At no time was the consumer public ever harmed by this healthy competition.

Microsoft is another story. Even after being found guilty of being an illegal monopoly, Microsoft's behavior has not changed. They use predatory business practices, restrictive licenses, and threats to OEM's, ISV's and their customers to maintain their monopoly. Regulation of their behavior, with the threat of severe criminal penalties for failure to comply, is the only remedy that I can see will curtail them.

The vast majority of the provisions within the settlement only formalize the status quo. Of the remaining provisions, none will effectively prohibit Microsoft from abusing its current monopoly position in the operating system market. This is especially important in view of the seriousness of

Microsoft's past transgressions, their lack of remorse, and their arrogance towards the law and the general public.

More importantly, the proposed settlement does nothing to correct or punish Microsoft's previous actions. There are no provisions that correct or redress their previous abuses. They only prohibit the future repetition of those abuses. This, in my opinion, goes against the very foundation of law. If a person or organization is able to commit illegal acts, benefit from those acts and then receive as a "punishment" only the instructions that they cannot commit those acts again, they have still benefited from their illegal acts. That is not justice, not for the victims of their abuses and not for the American people.

While the Court's desire that a settlement be reached is well-intentioned, it is wrong to reach an unjust and speedy settlement just for settlement's sake. A wrong that is not corrected is compounded and magnified.

The proposed settlement it is obviously a sham, a Bush administration sanctioned gift. Not even a slap-on-the-wrist, this proposed settlement does not address past wrongs nor does it prevent future anti-competitive behavior. The finding of fact which confirmed that Microsoft is a monopoly requires strict measures which address and punish the practices they have engaged in the past while at the same time prevent them from engaging in other monopolistic practices in the future.

Thank you for your time,

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